

ORDINANCE NO. _____, SERIES 2009

AN ORDINANCE REQUIRING THAT THE DELIVERY OF UNSOLICITED WRITTEN MATERIALS TO A PREMISES BE PLACED IN A DISTRIBUTION BOX, ON THE FRONT PORCH, THROUGH A MAIL SLOT, SECURELY ATTACHED TO THE FRONT DOOR ~~OR EXTERIOR OF A MAILBOX OR~~ BETWEEN THE EXTERIOR AND INTERIOR FRONT DOOR OR PERSONALLY WITH THE OWNER (AS AMENDED).

**Sponsored by: Brent Ackerson, District 26
Jon Ackerson, District 18
Jim King, District 10
Robert Henderson, District 14
Marianne Butler, District 15
Vicki Aubrey Welch, District 13
Rick Blackwell, District 12
James Peden, District 23
Kelly Downard, District 16**

WHEREAS, the legislative council of Louisville/Jefferson County Metro Government ("Metro Council") is concerned about the proliferation of litter in the community; and

WHEREAS, it has come to the attention of the Metro Council that deliveries of unsolicited written materials are being haphazardly delivered throughout Metro Louisville by distributing such materials on sidewalks, yards, and driveways with no means to ensure that such items do not add to the litter problem created; and

WHEREAS, the Metro Council has determined that these unsolicited written materials have contributed to the litter and visual blight of private premises, public streets, sidewalks, and other public places as well as damaging property, including but not limited to, causing or contributing to sewage and/or drainage backups; and

WHEREAS, the Metro Council wants to ensure that these unsolicited written materials do not litter the streets, sidewalks, other public places and yards and driveways of private premises, nor cause visual blight in our neighborhoods, nor damage property by causing or contributing to sewage and/or drainage backups; and

WHEREAS, this Ordinance is an effort to reduce unwanted litter and visual blight caused by unsolicited written materials on public property and the yards and driveways of private premises, and to further prevent damage to property as a result of sewage and/or drainage backups; and

WHEREAS, this Ordinance does not in any way deprive or diminish a private property owner's right to protect his or her premises from unsolicited or unwanted written materials.

NOW, THEREFORE, BE IT ORDAINED BY THE METRO COUNCIL:

SECTION I. A new section of the Louisville/Jefferson County Metro Code of Ordinances is hereby added as follows:

~~Unless the property owner has denied entry to their property;~~

- (1) Unsolicited written materials delivered to a premises shall be placed:
 - (a) where permitted, in a distribution box located on or adjacent to the premises; or
 - (b) on a porch, if one exists, nearest the front door; or
 - (c) so such materials are securely attached to the front door; or
 - (d) ~~so such materials are securely attached to the exterior of a mailbox located on or adjacent to the premises~~ through a mail slot on the front

door or principal structure, if existent, as permitted by the United States Postal Service Domestic Mail Manual, Section 508 Recipient Services, Subsection 3.1.2; or

~~(d)~~ (e) between the exterior front door, if existent and unlocked, and the interior front door; or

~~(e)~~ (f) personally with the owner, occupant and/or lessee of the premises.

(2) Notwithstanding Section (1), above, an owner, lessee or occupant maintains the right to restrict entry to his or her premises.

~~(2)~~(3) Unsolicited written materials placed at a premises create a rebuttable presumption that the materials were placed at the premises by the owner, agent, manager, and/or authorized distributor of the business, product, good, service, message, or idea, which is being advertised, promoted, endorsed or conveyed in such materials.

~~(3)~~(4) The provisions of this Ordinance do not apply to the United States Postal Service.

~~(4)~~(5) For purposes of this Ordinance, the following definitions shall apply:

(a) **Front Door.** The street-facing entrance(s) to a principal structure. In the event no door faces the street, then any other door of a principal structure nearest the street shall be considered a front door for purposes of this Ordinance.

(b) **Porch.** An exterior appendage to a principal structure leading to a doorway, including any stairway attached thereto.

(c) **Premises.** A lot, plot or parcel of land including any structures, driveways, or other impervious surfaces thereon.

(d) **Principal Structure.** A structure, as that term is defined in the Land Development Code for All of Jefferson County, Kentucky, or combination of structures of primary importance on the Premises, and that contains the primary use associated with the Premises. The primary use is characterized by identifying the main activity taking place on the Premises.

(e) **Unsolicited Written Materials.** Any written materials, which are delivered to any premises, without the express invitation or permission, in writing or otherwise, by the owner, occupant, or lessee of such premises.

~~(5)~~(6) Any placement of unsolicited written materials in areas on or adjacent to a premises other than as set forth in Section (1), above, shall be a violation of this Ordinance, classified as a civil offense and enforced through the Code Enforcement Board ("Board") as provided in §§ 32.275 through 32.290, or as it may be amended. The civil penalty shall be a minimum of \$100 and a maximum of \$200 for each violation.

(7) **SEVERABILITY.** If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION II. This Ordinance shall take effect ~~upon~~ 30 days after its passage and approval.

Kathleen J. Herron
Metro Council Clerk

David W. Tandy
President of the Metro Council

Jerry E. Abramson
Mayor

Approved: _____
Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: _____
Draft 17 – cpm 06112009 Floor Amendments